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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RHONDA GARNER D/B/A DÉCOR
SPECIALTIES, ON BEHALF OF HERSELF AND
ALL OTHERS SIMILARLY SITUATED,

Plaintiffs,

-V.-

MBF LEASING, LLC, LINA KRAVIC, BRIAN
FITZGERALD, SAM BUONO, AND WILLIAM
HEALY,

Defendants.

[illegible]

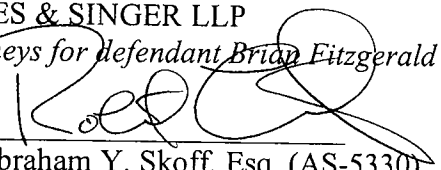
07 CV 5607 (CM) (RLE)

**NOTICE OF MOTION OF
DEFENDANT BRIAN
FITZGERALD TO DISMISS THE
AMENDED COMPLAINT**

PLEASE TAKE NOTICE THAT upon the accompanying Declaration of Brian Fitzgerald, dated April 4, 1008, and the Affirmation of Abraham Y. Skoff, dated April 9, 2008, together with the Exhibits annexed hereto, including the First Amended Class Action Complaint, dated November 15, 2007 (the “Amended Complaint”), and upon the pleadings and prior proceedings had herein, defendant Brian Fitzgerald (“Fitzgerald”), by his counsel, Moses & Singer LLP, hereby moves this Court, before the Honorable Colleen McMahon, United States District Judge, at the Daniel Patrick Moynihan United States Courthouse, located at 500 Pearl Street, New York, New York 10007, for an order:

- (a) pursuant to Rule 12(b)(2) of the Federal Rules of Civil Procedure, dismissing the Amended Complaint as against defendant Fitzgerald, on the grounds that the Court lacks personal jurisdiction over him; and
- (b) pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, dismissing the Amended Complaint on the ground that the Amended Complaint fails to state a claim against defendant Fitzgerald upon which relief may be granted, and for such further relief as this Court deems just and proper.

Dated: April 9, 2008
New York, New York

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